



PROCEDURES FOR PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

I. Purpose

This document describes the Commodity Futures Trading Commission's ("CFTC's" or "Commission's") procedures for processing requests for reasonable accommodation by employees and applicants for employment with disabilities.

II. Authority

The Rehabilitation Act of 1973, as amended, requires federal employers to provide reasonable accommodation for qualified individuals with disabilities unless the accommodation would pose an "undue hardship" for the agency. Executive Order 13164 and the resultant Equal Employment Opportunity Commission ("EEOC") policy guidance require each federal agency to establish written procedures for processing requests for reasonable accommodation by applicants and employees with disabilities.

III. Policy

The CFTC is committed to providing reasonable accommodation to its employees and applicants for employment in order to ensure that individuals with disabilities, as defined by the Rehabilitation Act, enjoy full access to equal employment opportunity at the Commission. The CFTC provides the following reasonable accommodations:

1. Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job;
2. Modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job; and
3. Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment for a job.

IV. Key Terms

- A. Reasonable accommodation:** Any change in the work environment or in the way that things customarily are done that enables an individual with a disability to enjoy equal opportunities.
- B. Essential functions:** Those job duties that are so fundamental to the position that the individual holds or desires that he/she cannot do the job without performing them. A function can be “essential” if, among other things: (1) the position exists specifically to perform that function; (2) there are a limited number of other employees who could perform the function; or (3) the function is specialized and the individual is hired based on his/her ability to perform it.

Determination of the essential functions of a position must be done on a case-by-case basis by the Deciding Official (see Subsection F, defining “Deciding Official”) or, where there is an unresolved difference of opinion, by the Disability Program Manager (see Subsection G, defining “Disability Program Manager,” and Section VI.C). The determination must reflect the job as actually performed and not simply the components of a generic position description. For example, an essential function of a particular computer programmer job might be described as “ability to develop programs that accomplish necessary objectives,” rather than “ability to manually write programs.”

- C. Qualified individual with a disability:** To be protected under the Rehabilitation Act, a person must not only be an individual with a disability, as defined under the Rehabilitation Act, but must be qualified. An individual with a disability is qualified if he/she: (1) satisfies the requisite skill, experience, education, and other requirements of the position; and (2) can perform the essential functions of the position, with or without reasonable accommodation.
- D. Undue hardship:** If a specific type of reasonable accommodation causes *significant difficulty or expense*, then the CFTC does not have to provide that particular accommodation. Determination of undue hardship is always made on a case-by-case basis by the Deciding Official (or Disability Program Manager pursuant to Section VI.C), considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the accommodation on the operations of the Commission.
- E. An individual with a disability:** The Rehabilitation Act defines a person with a disability as one who has a physical or mental impairment, which:
1. Substantially limits one or more of the person's major life activities;

2. Has a record of such impairment; or
3. Is regarded as having such an impairment.

See 29 CFR §1614.203(a)(1).

F. Deciding Official: The CFTC official responsible for processing a request for reasonable accommodation and making the decision either to grant the requested accommodation, or some alternative form of accommodation, or to deny the request. Depending on the nature of the request, the Deciding Official may be the employee's supervisor, the employee's office or division director, the Disability Program Manager, or staff in the Office of Human Resources.

G. Disability Program Manager: The CFTC official responsible for the administration of the reasonable accommodation program agency wide. This includes but is not limited to: (1) consulting with employees and applicants for employment on reasonable accommodation issues; (2) providing guidance to management officials, when requested, on whether an individual has a Rehabilitation Act disability; (3) coordinating requests for reasonable accommodation that impact on several different organizational units; (4) serving as a liaison with outside organizations that assist in accommodation actions; and (5) having final decision making authority to grant or deny requests for reasonable accommodation. In the discharge of his/her duties, the Disability Program Manager is subject to the authority of the CFTC Chairman.

V. Procedures for Requesting A Reasonable Accommodation

Requests for reasonable accommodation involve an interactive process between the employee or applicant for employment and an appropriate CFTC Deciding Official. Each request will be processed on a case-by-case basis. However, the employee or applicant carries the initial duty to inform the appropriate Deciding Official of the disability that may require an accommodation. The Deciding Official then has the responsibility to initiate an interactive process to identify the precise limitations resulting from the disability and the potential reasonable accommodation that could overcome those limitations.

A. Initiating the Process

An employee must direct an oral or written request for reasonable accommodation to his/her immediate supervisor, a supervisor or manager in his/her immediate chain of command, staff in the Office of Equal Employment Opportunity or Office of Human Resources, or the Disability Program Manager. Supervisors and other officials must be alert to

recognize reasonable accommodation requests even if the employee or applicant does not use words such as “reasonable accommodation,” “disability,” or “Rehabilitation Act.” Written requests for reasonable accommodation shall be submitted on the attached “Confirmation of Request for Reasonable Accommodation” form.

An applicant for employment may make a request for reasonable accommodation orally or in writing to any CFTC supervisor or manager or any employee in the Office of Human Resources with whom the applicant has contact in the application process. Written requests for reasonable accommodation shall be submitted on the attached “Confirmation of Request for Reasonable Accommodation” form.

A family member, health professional, or other representative may request an accommodation on behalf of an employee or applicant. The request should go to the person to whom the employee or applicant would make the request.

Individuals seeking reasonable accommodation must follow up an oral request for reasonable accommodation by completing a copy of the attached “Confirmation of Request for Reasonable Accommodation” form and submitting it to the Deciding Official. This enables the CFTC to maintain accurate records regarding requests for accommodation. However, the Deciding Official must begin processing an oral request as soon as the request is received regardless of whether or not the confirmation of request form has been received.

A written notice may not be required each time an individual requests a reasonable accommodation for a chronic or long-term disability. For example, the services of a sign language interpreter or reader for the same employee may be provided on an ongoing as-needed basis. In these cases, the written form will be required only on the first request although appropriate advance notice would be required each time the accommodation is sought. However, the CFTC Deciding Official may ask for periodic updated written requests in order to maintain a current justification.

B. Receiving the Request

Once an employee or applicant for employment makes a request for reasonable accommodation, the CFTC is responsible for processing the request within the time specified in Subsection F.

The procedure for processing the request involves a dialogue between the Deciding Official and the employee or applicant and should include consultation with other CFTC officials as appropriate (e.g., Office of

Information Resources Management with respect to computer technology or TTY telephone services; Office of Administrative Services with respect to furniture, special procurement items, architectural barriers, etc.; Office of General Counsel; and Office of Equal Employment Opportunity).

Where the Deciding Official is not the Disability Program Manager, the Deciding Official **must** involve the Disability Program manager in the decision making process at least to the extent specified in Subsections C, E, and F of this section and in Section VI and **may** consult with the Disability Program Manager for guidance and coordination as contemplated in Section IV (see Subsection G, defining “Disability Program Manager”).

The Deciding Official is responsible for processing the request and making the decision either to grant the requested accommodation, or some alternative form of accommodation, or to deny the request.

Normally, the employee’s immediate supervisor will serve as Deciding Official. In the case of an applicant for employment, the selecting official normally will serve as Deciding Official. However, an exception to this practice will occur in those instances where the requested accommodation goes beyond the supervisor’s or selecting official’s ability to grant, such as where the authorization or budget to provide an accommodation is lacking. **If the immediate supervisor or selecting official cannot serve as Deciding Official, another supervisor more senior in the immediate supervisor’s or the selecting official’s chain of command will serve as Deciding Official.**

As soon as possible, the Deciding Official will make known his/her identity to the person requesting the reasonable accommodation.

C. Evaluating the Request: Medical Information and Documentation

The CFTC is entitled to know that an employee or applicant for employment has a covered disability that requires a reasonable accommodation. In some cases, the CFTC may not have a need to seek medical information or documentation. Where the CFTC requires the individual to provide reasonable medical information or documentation about the disability and his/her functional limitations, the following process will apply:

1. If the Deciding Official is not the Disability Program Manager and believes that medical information or documentation is necessary in order to evaluate a request for reasonable accommodation, he/she will make a request to the Disability Program Manager.

2. The Disability Program Manager will make a determination about whether medical information or documentation is necessary. If it is, the Disability Program Manager will request information sufficient to substantiate that the individual has a Rehabilitation Act covered disability and that he/she needs the reasonable accommodation requested. All requests for medical information or documentation should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.

The types of medical information or documentation that **may** be asked for in connection with a request for reasonable accommodation are: (1) the nature, severity, and duration of the individual's impairment; (2) the activity or activities that the impairment limits; (3) the extent to which the impairment limits the individual's ability to perform the activity or activities specified; and/or (4) why the individual requires reasonable accommodation or the particular reasonable accommodation requested, as well as how the reasonable accommodation will assist the individual to apply for a job, perform the essential functions of the job, or enjoy a benefit of the workplace.

In most situations, this means the CFTC **may not** request access to a person's complete medical records because they are likely to contain information unrelated to the disability at issue and the need for accommodation.

If the Disability Program Manager asks for medical information, the individual requesting the reasonable accommodation must provide the information to the Disability Program Manager. Where documentation is necessary, in most instances the individual will need to obtain such documentation from a health care licensed practitioner. If the Disability Program Manager determines that medical information and documentation are not necessary, the Disability Program Manager will return the request to the Deciding Official to complete the processing (or will continue processing the request if he/she is the Deciding Official).

3. If the information volunteered by the individual requesting the accommodation or the documentation provided by the health care licensed practitioner is insufficient to enable the Disability Program Manager to determine whether an accommodation is appropriate, the Disability Program Manager may ask the individual requesting the accommodation to provide additional information or documentation as soon as possible.

The Disability Program Manager should explain to the individual requesting the accommodation why the information or documentation is insufficient and should identify the information or documentation still needed.

4. The individual then may ask the health care licensed practitioner to provide the missing documentation, or the Disability Program Manager may request that the individual sign a release of medical information pertinent to his/her condition.

The release obtained from the individual should be limited to an authorization to release medical information the Commission is permitted to obtain, *i.e.*, the information necessary to determine whether the person is an individual with a disability and has a need for an accommodation. Moreover, the Disability Program Manager thereafter may submit a list of specific questions to the individual's health care licensed practitioner or may otherwise contact the individual's health care practitioner.

5. Once the medical documentation is received, the Disability Program Manager will evaluate it. If necessary, the Disability Program Manager may, at the CFTC's expense, consult with a physician chosen by the Commission and/or request that the individual be examined by a physician chosen by the Commission.
6. Failure by an individual to provide appropriate information or documentation or to cooperate in the CFTC's efforts to obtain such information or documentation can result in a denial of the reasonable accommodation request.
7. All medical information and documentation that the CFTC obtains regarding the request for reasonable accommodation must be kept in files separate from the individual's personnel file. The Disability Program Manager will maintain custody of all records obtained or created during the processing of requests for reasonable accommodation. These records will be maintained and safeguarded in accordance with the Privacy Act and the Freedom of Information Act.
8. **Once the Disability Program Manager has reviewed the medical information and documentation, the Disability Program Manager will determine whether or not the individual has a Rehabilitation Act covered disability and, if not the Deciding Official, will notify the Deciding Official of his/her determination. The Deciding Official then will continue to process the request in accordance with the following**

subsections and Subsection VI. Supervisors and managers who have an official need to know may be told about necessary work restrictions and/or necessary accommodations.

9. In some cases the Disability Program Manager may determine that the individual does not have a disability under the Rehabilitation Act, but he/she may have a temporary medical condition that warrants other consideration. For example, broken limbs, sprains, a concussion, appendicitis, or influenza generally would not be disabilities. In such cases, the individual may consult with the Office of Human Resources on leave or other programs appropriate to the circumstances.

D. Evaluating the Request: Selecting the Appropriate Accommodation

1. The individual requesting the accommodation and the CFTC Deciding Official will communicate regarding the request and potential accommodations throughout the decision making process.
2. Although the individual may request an accommodation, he/she may not be entitled to the specified accommodation requested. In cases where an accommodation is warranted, the accommodation provided must be: (1) appropriate for the medical condition; (2) not cause undue hardship to the CFTC; and (3) allow the individual to perform the essential functions of the job.
3. The Deciding Official can suggest possible accommodations in consultation with appropriate CFTC officials, such as staff in the Office of Information Resources Management or Office of Administrative Services. The Job Accommodation Network (JAN), the Department of Defense Computer/Electronic Accommodations Program (DoD CAP), or other technical assistance resources such as vocational rehabilitation specialists can provide help in selecting the appropriate accommodation.

E. Reassignment or New Position

There are specific considerations in the interactive process when responding to a request for reassignment.

1. Reassignment will be considered only if:
 - a. No accommodations are available to enable the individual to perform his/her current job; or

- b. The only other effective accommodation would cause the CFTC undue hardship.

Moreover, the CFTC is not required to reassign an individual if the reassignment itself would cause the Commission undue hardship. The CFTC also is not required to create a position as a means of reasonably accommodating an employee.

- 2. Where reassignment is being considered, the Deciding Official will work with the requesting individual, Disability Program Manager (if not the Deciding Official), and the Office of Human Resources to identify:
 - a. All actively vacant positions within the Commission for which the individual is qualified, with or without reasonable accommodation; and
 - b. All positions that the Office of Human Resources anticipates becoming vacant over the next 60 days for which the employee may be qualified.

F. Time Frames in the Reasonable Accommodation Program

- 1. After reviewing the facts, the Deciding Official will expedite requests for reasonable accommodation and will determine whether to grant or deny the accommodation **within 15 business days**, unless there are extenuating circumstances such as difficulty in obtaining medical information or documentation.

If medical information or documentation is needed, the decision shall be made **within 15 business days** from the date that the Disability Program Manager determines whether or not the individual has a Rehabilitation Act covered disability. The Disability Program Manager shall review the relevant information and/or documentation and determine whether the individual has a Rehabilitation Act covered disability **within 10 business days** of his/her receipt of all of the necessary information and documentation.

If there is a delay, the Deciding Official (or Disability Program Manager, where applicable) must notify the individual in writing of the reason for the delay and, to the extent possible, also keep the individual informed of the date on which the Deciding Official (or Disability Program Manager) expects to complete the process. During delay periods, the Deciding Official must investigate whether there are temporary measures that could be taken to

assist the individual requesting the accommodation. In such a case, the Deciding Official must notify the individual in writing that the accommodation is provided on a temporary basis pending a decision on the accommodation request.

2. With respect to employment applicants requesting reasonable accommodation, the Deciding Official may expedite processing of the request or may extend time frames in the selection process to allow reasonable accommodation for disabled applicants to compete for job vacancies.

VI. Granting/Denying a Reasonable Accommodation Request

- A. If the decision is to grant the accommodation, the Deciding Official will inform the requesting individual of the projected time frame for providing the accommodation. The time frame necessary to provide an accommodation will depend on the nature of the accommodation, but should be as short as reasonably possible. Some accommodations may be provided within the 15-day time frame for reviewing a request (e.g., permitting breaks for an employee with diabetes to test his/her blood or developing an alternative work schedule). Other accommodations may require a longer time frame (e.g., purchasing special equipment or removing architectural barriers).
- B. If the Deciding Official is not the Disability Program Manager and believes that the requested accommodation would cause undue hardship or is not otherwise supportable, the Deciding Official will contact the Disability Program Manager **before** notifying the individual requesting the accommodation. This will provide an additional level of review before the denial is finalized.
- C. If the Deciding Official determines that the request will be denied, he/she will respond in writing to the requesting individual, using the “Denial of Request for Reasonable Accommodation” form, with a copy to the Disability Program Manager. The request will state the specific reasons for the denial. **(In the event there is an unresolved difference of opinion between the Deciding Official and the Disability Program Manager, the Disability Program Manager shall have authority to make the final determination.)**
- D. Attached to the notice of denial form will be information on the individual’s right to file an Equal Employment Opportunity discrimination complaint or grievance or to request mediation under the CFTC’s Alternative Dispute Resolution and Grievance Program.

- E. **Within 10 business days** of the final decision, the Deciding Official will complete the attached “Reasonable Accommodation Information Reporting Form” and (when the Deciding Official is not the Disability Program Manager) submit it to the Disability Program Manager.

VII. Dispute Resolution Appeal Procedures

- A. Informal Resolution. If an employee or applicant for employment wishes reconsideration, he/she may ask the Deciding Official to reconsider the determination. The individual may present additional information in writing in support of the request. The Deciding Official will give a written final response **within 20 business days of receipt of the request** unless the Deciding Official notifies the individual of extenuating circumstances that require additional time in order to make the proper determination. Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation.

An employee also may request mediation under the CFTC’s Alternative Dispute Resolution and Grievance Program as outlined in CFTC Instruction 474-3.

- B. Pursuing any of the informal dispute resolution procedures identified above, including seeking reconsideration by the Deciding Official, does not affect the time limits for initiating statutory and collective bargaining claims. An individual’s participation in any or all of these informal dispute resolution processes does not satisfy the requirements for bringing a claim under Equal Employment Opportunity, Merit Systems Protection Board, or union grievance procedures.

VIII. Information Tracking

In accordance with Executive Order 13164, the CFTC will track information regarding the disposition of requests for reasonable accommodation. The CFTC will: (1) maintain records related to a requesting individual for the duration of that person’s employment; and (2) retain for three years, and be able to provide to the EEOC, information or any cumulative records used to track the Commission’s performance with regard to reasonable accommodation.

As stated above, all medical information and documentation that the CFTC obtains in connection with a request for reasonable accommodation must be kept in safeguarded files separate from the individual’s personnel file. The medical records files will be stored in the custody of the Disability Program Manager. In addition, individuals who have access to information necessary to make a decision about whether to grant a requested accommodation may not disclose this information except as follows:

1. Personnel who need to know may be told about necessary restrictions on the work or duties of an employee and about the necessary accommodation(s).
2. First aid and safety personnel may be told if the disability might require emergency treatment or for emergency planning purposes.
3. Government officials, such as EEOC staff, may be given information necessary to evaluate the efficacy of the CFTC's reasonable accommodation procedures and to determine the Commission's compliance with the Rehabilitation Act.
4. The information may in certain circumstances be disclosed to worker's compensation offices or insurance carriers.
5. Commission Equal Employment Opportunity officials may be given the information to maintain records and to evaluate and report on the Commission's performance in processing reasonable accommodation requests.

The Disability Program Manager will prepare an annual report containing the following information:

1. The number of reasonable accommodation requests and whether they were granted or denied;
2. The jobs (occupational series, grade level, and office/division) in which the requesting individuals serve or for which they applied;
3. The number and types of reasonable accommodations for each job (by office/division) that have been approved and denied;
4. The number and types of requests that relate to the benefits or privileges of employment, and whether those requests were granted or denied;
5. The reasons for denial of requests for reasonable accommodation;
6. The amount of time taken to process each request; and
7. The sources consulted for technical assistance in identifying possible reasonable accommodations.

The report will not contain the names and other personal identifiers of the people seeking an accommodation. The Disability Program Manager will transmit the

report to the Office of Equal Employment Opportunity, which will distribute the report as appropriate.

IX. Resources and Training Devoted to the Reasonable Accommodation Program

The CFTC will allocate the staff, training, and financial resources necessary to ensure that the Commission maintains a viable and responsive reasonable accommodation program. Additional resource materials for applicants, employees, managers, and supervisors are available on the EEOC's website, located at <http://www.eeoc.gov>.



CONFIRMATION OF REQUEST FOR REASONABLE ACCOMMODATION

1. EMPLOYEE / APPLICANT:

Name

Phone Number

Division/Office (and supervisor's name if applicable)

Today's Date

2. ACCOMMODATION REQUESTED:

(Be as specific as possible, e.g., adaptive equipment, reader, or interpreter.)

Is this written request a follow-up to an oral request? ☐ Yes ☐ No

If yes, to whom did you raise the request? _____ When? _____

3. REASON FOR REQUEST:

If accommodation is time sensitive, please explain.:

Please return form to Disability Program Manager.

4. LOG NUMBER: _____
(Assigned by Disability Program Manager)



DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION

1. EMPLOYEE / APPLICANT: _____

2. TYPE(S) OF REASONABLE ACCOMMODATION REQUESTED:

3. REQUEST DENIED BECAUSE (may check more than one box):

- ☐ Accommodation Ineffective
- ☐ Accommodation Would Cause Undue Hardship
- ☐ Medical Information/Documentation Inadequate
- ☐ Accommodation Would Require Removal of an Essential Function of the Job
- ☐ Accommodation Would Require Lowering of Performance or Production Standard
- ☐ Other (Please specify) _____

4. DETAILED REASON(S) FOR THE DENIAL:

(Be as specific as possible, e.g., why accommodation is ineffective, or why accommodation causes undue hardship.)

5. DETAILED REASON(S) FOR ALTERNATIVE ACCOMMODATION:

(If the individual proposed one type of reasonable accommodation that is being denied and rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why you believe the chosen accommodation would be effective.)

Deciding Official

Date



REASONABLE ACCOMMODATION INFORMATION REPORTING FORM

EMPLOYEE / APPLICANT:

Name

Division/Office

1. Reasonable accommodation (check one):

☐ Approved

☐ Denied (If denied, attach copy of written Denial of Request for Reasonable Accommodation form.)

2. Date of request: Oral: _____ Written: _____

Person who received request: Oral: _____ Written: _____

3. Date reasonable accommodation request referred to Deciding Official: _____

4. Date reasonable accommodation approved or denied: _____

5. Date provided (if different from date approved): _____

6. If time frames outlined in the Reasonable Accommodation Procedures were not met, please explain:

7. Job held, or desired, by individual requesting reasonable accommodation (including occupational series, grade level, and office):

8. Reasonable accommodation needed for (check one):

- ☐ Application process
- ☐ Performing job functions or accessing the work environment
- ☐ Accessing a benefit or privilege of employment (e.g., attending a training program or social event)

9. Type(s) of reasonable accommodation requested (e.g., adaptive equipment, staff assistant, removal of architectural barrier):

10. Type(s) of reasonable accommodation provided (if different from what was requested):

11. Was medical information and/or documentation required to process this request?
If yes, explain why:

12. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (e.g., Job Accommodation Network, Department of Defense Computer/Electronic Accommodations Program, a disability organization, the Disability Program Manager):

13. Comments:

Submitted by: _____ Phone: _____

Attach copies of all documents obtained or developed in processing this request.